

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Accelerating Wireline Broadband)	
Deployment by Removing Barriers)	WT Docket No. 17-84
to Infrastructure Investment)	
)	

**REPLY COMMENTS OF THE
MINNESOTA ASSOCIATION OF COMMUNITY TELECOMMUNICATIONS ADMINISTRATORS**

Introduction

The Minnesota Association of Community Telecommunications Administrators (MACTA)¹ respectfully submits these Comments in response to the April 21, 2017 Notice of Proposed Rulemaking, Notice of Inquiry (“NOI”), and Request for Comment of the Federal Communications Commission.²

Telecommunications and Broadband Deployment has a History of Success in Minnesota

MACTA wholeheartedly acknowledges the immense benefits of broadband infrastructure deployment as it fosters economic development and educational opportunities and provides overall lifestyle improvement. MACTA recognizes without adequate broadband facilities in place, Minnesota communities may be unable to meet the demands of their residents and businesses and we therefore support the Commission’s goal to accelerate the deployment of next-generation broadband networks.

¹ MACTA is a Minnesota non-profit professional association which represents over 100 Minnesota local government entities in matters related to cable television franchising; public, educational and government access programming; and use of the rights-of-way (ROW) as it pertains to cable, broadband and telecommunications development and deployment of their “communications” systems. MACTA is a state chapter of the National Association of Telecommunications Officers and Advisors (NATOA).

² *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, PUBLIC NOTICE, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, FCC 17-37 (Apr. 21, 2017) (2017 Wireline Infrastructure Notice), *as modified by 2017 Wireline Infrastructure Notice*, PUBLIC NOTICE, WC Docket No. 17-84 DA-17-473 (May 16, 2017).

But, the Commission's NOI operating premise is flawed in its perceived assumption that municipal laws, regulations and rights-of-way practices have a negative and chilling effect for the installation, construction, and placement of telecommunications infrastructure throughout Minnesota. In fact, just the opposite. As we stated in our WT Docket No 16-421 Reply Comment filing,³ Minnesota communities have had, "a successful 25 plus year history of local governments working in partnership with the wireless industry to the deployment of wireless services in our communities through the use of local government's infrastructure, i.e., water towers, parks and other public land, etc. Local governments are responsible for these public assets and the industry has been successfully negotiating the placement and payment of its infrastructure for over 25 years. This partnership has served the industry with reliable, timely, convenient and cost effective locations for placement of their equipment. MACTA sees no difference between this successful partnership and this next phase of small cell wireless infrastructure deployment. In fact, the industry knows it is far easier to place and pay for their infrastructure on public property than having to negotiate hundreds of separate contracts with private property owners."

There is absolutely no reason to believe this is still not the case. Public and private partnerships work in Minnesota.

To help further illustrate this point, the State of Minnesota's Border-to-Border Broadband Development Grant Program⁴ has awarded \$65.5 million, dispersed through 73 broadband grants over three years (2014-16) to support the advancement of broadband deployment in rural Minnesota. The first three years have seen \$81.6 million in matching investments from the industry and communities resulting in 26 public/private partnerships to date. Additionally, this successful program received an additional \$20 million funding from the State during the 2017 legislative session.

Another prime example of local government working with the telecommunications industries in Minnesota is the recent amendments to Minnesota State Statutes, Sections 237.162 and 237.163.⁵ Although, the League of Minnesota Cities (LMC), and other similar organizations representing local governments, including MACTA, believed the former language in 237 provided reasonable abilities for

³ WT Docket No. 16-421, *In the Matter of Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Mobilitie, LLC Petition for Declaratory Ruling*

⁴ See Minnesota Office of Broadband Development website, <https://mn.gov/deed/programs-services/broadband/grant-program>

⁵ Minn. Stat. §§ 237.162, 237.163, as amended by Chapter 94, Article 9 of 2017 legislative session

the telecom industry to deploy small cell infrastructure, LMC still worked tirelessly with the industries to find language acceptable to all parties. As a result, Minnesota State Statute has been amended to address many of the concerns the industries has sought to change at the federal level pertaining to the oversight and regulation of the rights-of-way, in particular to small cell deployment. Yet, another example of how public and private partnership can work, if all parties are willing to work together.

Related to this, with the passage of this legislation in Minnesota, along with at least nine other states which have enacted new “small cell deployment” legislation, it is good common business sense that any state, including Minnesota, that has negotiated language acceptable to local government agencies and the telecommunications industries should be grandfathered and exempted from any changes enacted by the FCC in policies pertaining to the areas being addressed in WT Docket No 17-84.

MACTA Supports Comments

MACTA supports Comments submitted by the League of Minnesota Cities (LMC)⁶, the Minnesota Coalition⁷ (Coalition) and the National Association of Telecommunications Officers and Advisors (NATOA)⁸ in this proceeding. All of these Comment filings support our claim that the current system is working. LMC summarizes this by stating: “LMC urges the Commission to refrain from interfering with local ordinances and practices, and to continue to allow Minnesota to continue delivering Broadband through its Minnesota Broadband Program, as well as its management of its public rights-of-way through existing Minnesota Statutes, specifically Chapter 237 (Minnesota’s Local Telecom ROW Act). Imposing a new federal regulatory overlay would not only create confusion and administrative burden upon communities (many with limited resources and personnel; but also, would create unnecessary costs, conflict with the intent of Section 253 of the TCA and would undermine important local policies.”

⁶ WT Docket No 17-84 Comments filed by Pamela Whitmore for League of Minnesota Cities, 145 University Avenue, St. Paul, MN

⁷ Minnesota Coalition comprised of 21 Minnesota cities, with WT Docket no 17-84 Comments filed on their behalf by Brian T. Grogan, Moss & Barnett, 150 South Fifth Street, Suite 1200, Minneapolis, MN

⁸ WT Docket 17-84 and WTB 17-79 Comments filed by Steve Traylor for NATOA, 3213 Duke Street, Alexandria, Virginia

Clarification of a Statement Made by AT&T Services in its WT Docket No 17-84 Filing⁹

MACTA would like to provide clarification of an allegation made by AT&T pertaining to the City of Bloomington's (Minnesota) permit fees as being unreasonable. It should be understood, the recent change in Minnesota state law, one championed by providers like AT&T, significantly limited the amount of rent Bloomington is allowed to charge to private users of its public rights-of-way. Before this change, Bloomington would recover the costs of processing applications for small cell installations, in part, by charging rent for the use of the public right-of-way. However, the new state law capped rent at an amount that would not cover the City's up-front costs of processing these applications. The new state law allowed cities to use the permit fee to recover the actual costs of processing small cell applications. But Bloomington's old permit fee of just \$35 did not cover costs. Bloomington's Engineering Division calculated the staff time and other resources used to process small cell applications, and established the new permit fee at a figure that would cover its actual costs. Therefore, it is incorrect to characterize the increase in Bloomington's permit fee as an issue of recouping "lost revenue." It is an issue of cost recovery. The new state law specifically allows the permit fee to be set at a figure which covers actual costs. This is what Bloomington has done.

Conclusion

MACTA's member cities understand the importance of what the advancement and introduction of broadband and new technologies, including 5G, would provide to our residents, businesses and public at-large. Furthermore, we look forward to continuing to nurture and build upon the partnerships that have been developed with the wireless and communications industries. But, we oppose further federal guidelines and interpretations which result in preemption of local siting authority, and ask the Commission to consider carefully the many differences between communities that necessitate local decisions. Instead, we ask to be allowed to continue work with local wireless carriers and infrastructure providers to integrate these technologies, and others that have yet to be invented, into our planning and zoning processes in a way that preserves and protects the finite rights-of-way belonging to our residents.

⁹ Page 18, (Application/Permit Fee) WT Docket No 17-84 Comment Filing by AT&T Services, Inc, and filed on behalf by Robert Vitanza, et al, 208 S. Akard Street, Dallas, TX

Respectively Submitted,

Minnesota Association of Community Telecommunications Administrators

A handwritten signature in cursive script that reads "Janine M. Hill". The signature is written in dark ink and is positioned above the printed name.

Janine Hill

President

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